JENNIFER LEE TAYLOR (CA SBN 161368)
JTaylor@mofo.com
JOYCE LIOU (CA SBN 277720)
JLiou@mofo.com
NICHOLAS HERRERA (CA SBN 301992)
NHerrera@mofo.com
RYAN ROMAIN (CA SBN 319603)
RRomain@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Attorneys for Plaintiff
LAMBDA LABS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

LAMBDA LABS, INC.,	Case No. 4:19-cv-04060-JST (TSH)
Plaintiff,	**LAMBDA LABS, INC.'S MOTION TO COMPEL DOCUMENTS CONCERNING LAMBDA SCHOOL'S LAMBDA STUDIOS AND LAMBDA FELLOWS PROGRAMS**
v.	
LAMBDA, INC.,	
Defendant.	Judge: Magistrate Judge Thomas S. Hixson

SUBMITTED UNDER SEAL
PUBLIC VERSION

Lambda's Motion to Compel[1]

Plaintiff Lambda Labs, Inc. ("Lambda") moves to compel documents regarding Defendant Lambda, Inc.'s ("Lambda School") Lambda Studios and Lambda Fellows programs. Lambda School contracts with third parties to provide them with software engineering services through these programs. Lambda School's CEO has described Lambda Studios as "[a] full-service software agency by Lambda School" that has "engineers and designers on staff to manage projects from the ground up, supported by Lambda grads to help build," and testified that ███ ███████████████████████████████████ These services compete with Lambda's software engineering services, and are therefore directly relevant to the second *Sleekcraft* factor, proximity of the goods and services. *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 350-52 (9th Cir. 1979).

Lambda School, however, produced only a handful of documents regarding these two programs,[2] forcing Lambda to move to compel documents responsive to RFP Nos. 164, 165, 167, 168, 178, 184, and 223.[3] Lambda School's objections that these Requests seek irrelevant documents and are overbroad, vague, and ambiguous merit no consideration. As explained below, the documents Lambda seeks are directly relevant to Lambda's claims. The requests are also proportional because, despite the competing nature of the services that are the subject of this motion, Lambda seeks only a limited universe of documents regarding the Lambda Studios and Lambda Fellows programs. As for the boilerplate vagueness and ambiguity objections, Lambda School never explained them during the parties' meet and confer. The Court should overrule each objection and compel the requested discovery.

RFP Nos. 164 and 167. Lambda seeks the following documents, all of which are responsive to these Requests:
- All marketing or advertising regarding Lambda Studios or Lambda Fellows, including direct marketing efforts and communications.
- Communications between Lambda School and potential Lambda Studios or Lambda Fellows clients.
- Documents sufficient to identify all companies Lambda School contacted, or who contacted Lambda School, regarding the Lambda Studios or Lambda Fellows programs.

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[1] Lambda School refused to provide its portion of a joint submission on this motion. (Ex. 5.)

[2] Lambda School said this afternoon that it would produce additional documents responsive to these requests. That is too little too late. Lambda has been seeking these documents since December, and has received multiple assurances from Lambda School that additional documents related to the Lambda Studios and Lambda Fellows programs would be produced. Yet, its production relating to these programs remains woefully deficient, thus necessitating this motion. Because today is the deadline to file motions to compel, Lambda requires a court order compelling Lambda School to produce the documents that are the subject of this motion.

[3] (*See* Ex. 1, Lambda School's Responses to Lambda's Fourth Set of Requests for Production, RFP Nos. 164, 165, 167, and 168; Ex. 2, Lambda School's Responses to Lambda's Fifth Set of Requests for Production, RFP Nos. 178 and 184; Ex. 3, Lambda School's Responses to Lambda's Sixth Set of Requests for Production, RFP Nos. 223.)

- Documents sufficient to identify companies who participated in the Lambda Studios or Lambda Fellows pilot programs.
- Invoices for all services provided through Lambda Studios or Lambda Fellows.
- All analysis or assessments conducted by Lambda School regarding Lambda Studios or Lambda Fellows, including regarding the sustainability of the program, opportunity of scale, quality of student output, quality of product, the resources required to support the program, or other assessments. Joshua Howland, the Director of Lambda Studios, testified that ███████████████████████████████████████ ██████████████ (Ex. 4 (Howland Dep. 122:17-25, 124:5-21).)
- Documents sufficient to show all project "requirements" Lambda School received from actual or prospective Lambda Studios or Lambda Fellows clients. Mr. Howland testified that ███ ██ ████████████
- All communications or notes regarding the prospective Lambda Studios client who requested ███████████████████████ as described in Mr. Howland's deposition.
- Documents sufficient to show all feedback received from clients regarding services provided through the Lambda Studios or Lambda Fellows programs, and the programs themselves.

These categories are tailored to obtain documents necessary for Lambda to determine the full range of services offered through the Lambda Studios and Lambda Fellows programs, and to determine whether there is overlap between prospective and actual Lambda Studios and Lambda Fellows customers and those of Lambda—another *Sleekcraft* factor. And given Lambda School's poor reputation, documents regarding feedback related to these programs are relevant to establish whether Lambda's reputation is likely to be further harmed from Lambda School's provision of competing, albeit poor quality software engineering services. Lambda is particularly concerned because Lambda School promotes its Lambda Studios program for developing machine learning models—"Our data scientists and engineering managers … can use your datasets to create machine learning models," which is a service Lambda provides, even while the director of that program ████████████████████████████████████ ██ (Ex. 4 (Howland Dep. at 171:24-172:14).)

RFP Nos. 165 and 168. Lambda seeks all Lambda Studios and Lambda Fellows contracts and statements of work related to those contracts, including any executed after Lambda School's prior productions. The form contracts Lambda School produced in this case make it clear that the separate statements of work contain descriptions of services to be performed under each Lambda Studios and Lambda Fellows contract. Lambda needs these documents to determine the nature of the services Lambda School had already provided through its Lambda Studios and Lambda Fellows programs. Those services appear to be competing based upon the descriptions of the programs on Lambda School's website, but the contracts and statements of work are required to confirm that they are.

RFP Nos. 178 and 184. Lambda seeks the following documents, which are responsive to these Requests:
- Documents sufficient to show revenues received from clients of Lambda Studios or Lambda Fellows (RFP No. 178).
- Documents sufficient to show Lambda School's costs related to the Lambda Studios and Lambda Fellows programs (RFP No. 184).

Lambda School's revenues and costs related to the Lambda Studios and Lambda Fellows programs are necessary for Lambda to determine the scope of these competing programs, the resources Lambda School is dedicating to them, and any profits that are subject to disgorgement in this action. Lambda seeks only documents sufficient to show revenues and costs.

RFP No. 223. Lambda seeks the following documents, which are responsive to this Request:
- All slide decks, presentations, pitches, or reports that discuss Lambda School's business or marketing plans for Lambda Studios or Lambda Fellows.
- All notes or materials regarding "Discuss and Decide" presentations, or any other presentations to the Lambda School executive team, regarding the Lambda Studios or Lambda Fellows programs.

Like the previously discussed categories of documents, these documents are necessary for Lambda to obtain a clear picture of the software engineering and data science services offered through the Lambda Studios and Lambda Fellows programs. Lambda School's business or marketing plans, and presentations to its executive team, are also relevant to determine Lambda School's plans for the programs moving forward. This is relevant to determine if the parties' competing services will be offered through the same channels of trade to a similar or overlapping customer basis, which are additional *Sleekcraft* factors. Presentations to the executive team may also shed light on Lambda School's intent in expanding its use of the LAMBDA mark to encompass directly competing software engineering and data science services more than a year after this lawsuit was filed, which is yet another *Sleekcraft* factor.

Dated: March 5, 2021   JENNIFER LEE TAYLOR
                                                 JOYCE LIOU
                                                 NICHOLAS HERRERA
                                                 RYAN ROMAIN
                                                 MORRISON & FOERSTER LLP

                                          By: */s/ Jennifer Lee Taylor*
                                                 JENNIFER LEE TAYLOR

                                                 Attorneys for Plaintiff
                                                 LAMBDA LABS, INC.

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